

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Advanced Practice

Section Affected: Title 16, Division 39, California Code of Regulations, Section 4154 - Post Professional Education and Training

SPECIFIC PURPOSE OF THE REGULATIONS:

The California Board of Occupational Therapy (Board) is the State agency that regulates the practice of occupational therapy. The Board's highest priority in exercising its licensing, regulatory, and disciplinary functions is to protect and promote the public's health, safety and welfare. The Board also administers, coordinates, and enforces the provisions of the laws and regulations pertaining to occupational therapy.

The specific purpose of the proposed regulation is to amend California Code of Regulations (CCR) section 4154 to establish, clarify, and implement a new requirement that post-professional course instructors must possess and maintain a current, active and unrestricted license.

FACTUAL BASIS/NECESSITY:

Existing law, Business and Professions Code Section 2570.3, requires an occupational therapist who wishes to provide services in the advanced practice areas of hand therapy, swallowing assessment, evaluation, or intervention, or use of physical agent modalities, must demonstrate to the Board that they have met post professional education and training requirements, as specified. CCR section 4154 establishes a post professional education instructor's qualifications which include their education, training, experience, scope of practice, licenses held, length of experience, and expertise relevant to the subject matter.

CCR section 4154 currently does not specify that post professional course instructors who possess a health care license, must hold and maintain a current, active, and unrestricted license. This proposed regulation seeks to add language to section 4154 that would require course instructors, who are "health care practitioners" as defined in Business and Professions Code section 680, to have a current, active and unrestricted license. Any course instructor who does not meet this requirement would not qualify to teach a post professional education course. The proposed regulation seeks to establish, clarify, and eliminate any possibility that a health care practitioner with a revoked, suspended, or restricted license, be deemed qualified to teach post professional education courses.

The proposal also renumbers and adds subsection (d) to section 4154 for numbering consistency.

UNDERLYING DATA:

No underlying data was used during the development of these regulations.

BUSINESS IMPACT:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of business in the State of California.

The proposed regulatory proposal would have minimal economic impact on businesses. A business who employed a course instructor who did not meet the added requirement may find it necessary to employ an additional course instructor who meets the requirements proposed.

The proposed regulatory proposal may also affect course instructors who do not possess a current, active or unrestricted license courses ultimately resulting in loss of income.

ECONOMIC IMPACT ANALYSIS

The proposed regulatory action seeks to clarify qualifications for instructors teaching advanced practice coursework. The proposed regulatory action would require advanced practice instructors must possess a current, active, and unrestricted license to teach post-professional (advanced practice) coursework.

Creation/Elimination of Jobs

The proposed regulatory action will not significantly result in the creation or elimination of jobs within California. Licensed occupational therapy practitioners choose voluntarily to renew their license and those renewing would be able to comply with the proposed regulatory action. Those licensees who choose not to renew their license do so willingly and would be prohibited from teaching/instructing post-professional (advanced practice) courses. Licensed occupational therapy practitioners who have been disciplined (e.g., or have had their license suspended or placed on probation) would be precluded from teaching advanced practice coursework which would require educational providers to find a qualified replacement; the overall effect would be a zero sum gain/loss.

Creation of New Business or Elimination of Business Within California

The proposed regulatory action would not create or curtail businesses providing post professional education in California. Post professional educational businesses may incur minor costs associated with the replacement of instructors who do not maintain current licensure or who have been disciplined by state agencies.

Expansion of Businesses/Business Within California

The proposed regulatory action would not expand or curtail the post professional education (advanced practice) providers from doing business in California as companies could replace the prohibited instructors with those licensees with a current or unrestricted

license. Also, the regulatory requirements would be applied equally to educational providers located in other states as well.

Intended Benefit

The intended benefit of the proposed regulatory action is to protect the health, safety, and welfare of California consumers. The proposed regulatory action is designed to ensure the quality of instruction provided and the safety of those occupational therapy practitioners enrolled in post professional courses; an instructor with a current and unrestricted license should help ensure that the quality of the courses is not compromised or undermined and is representative and consistent with professional standards.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.